

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:20-cv-225

KELLEY MCGLONE,

Plaintiff,

v.

OUTBACK STEAKHOUSE OF FLORIDA,
LLC,

Defendant.

NOTICE OF REMOVAL

TO: The United States District Court
For the Eastern District of North Carolina

Pursuant to 28 U.S.C. §§ 1441(b) and 1446, Defendant Outback Steakhouse of Florida, LLC (“Defendant”), by and through the undersigned counsel, hereby removes this action from the Superior Court of Robeson County, North Carolina, to this Court. In support of this Notice of Removal, Defendant states:

1. Plaintiff commenced this action on October 15, 2020, by filing a Complaint, captioned *Kelley McGlone v. Outback Steakhouse of Florida, LLC*, File No. 20 CVS 2757, in the Superior Court of Robeson County, North Carolina (the “State Court Action”).

2. Defendant was served process on October 24, 2020, and Plaintiff filed a corresponding Affidavit of Service on November 5, 2020.

3. Pursuant to 28 U.S.C. §§ 1441(b) and 1446(b)(1), Defendant files this Notice of Removal within thirty (30) days from service of the Summons and Complaint, which sets forth claims for relief upon which this proceeding is based.

4. A copy of all process, pleadings, and orders that have been filed and served upon Defendant in this action to date are attached hereto as **Exhibits 1 through 4**.

5. Defendant has not filed a responsive pleading in the State Court Action. In filing this Notice of Removal, Defendant does not waive any defense or counterclaim that may be available to it.

6. In her Complaint, Plaintiff has asserted claims of negligence against Defendant, arising from the personal injuries that Plaintiff claims to have sustained after she allegedly slipped and fell in Defendant's restaurant in Lumberton, North Carolina, on October 22, 2017.

7. This is an action of a civil nature in which the District Courts of the United States have been given original jurisdiction pursuant to 28 U.S.C. § 1332.

8. Complete diversity of citizenship exists as between Plaintiff and Defendant. Plaintiff is a citizen and resident of Wayne County, West Virginia, and Defendant is a Florida limited liability company with its principal place of business in Florida (Compl. ¶¶ 1-2).

9. Upon information and belief, the aggregate amount of damages in controversy exceeds the statutory minimum of \$75,000, exclusive of interest and costs. In her Complaint, Plaintiff expressly seeks damages "in excess of \$25,000.00" and claims that her slip-and-fall caused her to sustain "excruciating pain of body, mind and spirit," including but not limited to, "injuries to her right shoulder and right leg" and "great mental anguish and anxiety" (Compl. ¶¶ 7, 17-18); incur "medical expenses for diagnosis, treatment and medication," (Compl. ¶ 19); and suffer "monetary loss due to lost wages, decreased ability to work and earn wages and lost opportunities" (Compl. ¶ 20).

10. Moreover, venue is proper in the Southern Division of the Eastern District of North Carolina pursuant to 28 U.S.C. § 1441(a), as it is in the district and division embracing the place where the State Court Action is pending.

11. Promptly after filing this Notice of Removal, Defendant will file a copy of this Notice of Removal with the Robeson County Clerk of Superior Court and serve a copy of this Notice of Removal (and all accompanying filings) upon Plaintiff, as reflected in the attached certificate of service.

WHEREFORE, Defendant prays that this action be removed to this Court for all further proceedings, as though this action had originally been instituted in this Court. Defendant further requests that this Court assume jurisdiction over this action and proceed to a final determination thereof and that there be a trial by jury of all issues so triable.

This the 20th day of November, 2020.

YOUNG MOORE AND HENDERSON, P.A.

BY: /s/ Christopher A. Page

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system and served the foregoing on counsel of record by U.S. Mail at the address indicated below.

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This the 20th day of November, 2020.

YOUNG MOORE AND HENDERSON, P.A.

BY: /s/ Christopher A. Page

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